

## REMARKS

Applicants thank the Examiner for his suggestions during a telephone call on August 6, 2003.

Claims 1-16, 21, and 23-40 are pending. Claims 1-16, 21 and 23-30 are withdrawn by the Examiner. Claims 1-36 and 39 are canceled. Claims 37 and 40 are amended, and new Claims 41-44 are added. Amended Claims 37 and 40 are supported, e.g., on page 58, lines 4-21, and on page 82, lines 6-20. New Claims 41-44 are supported, e.g., by previously filed claims 33-35.

Applicants believe that no new matter is added by the foregoing amendments.

### I. Information Disclosure Statement.

The Examiner objected that the IDS filed on September 6, 2000, fails to comply with 37 C.F.R. 1.98(a)(2). Applicants submit a new Information Disclosure Statement, with a copy of the IDS filed on September 6, 2000, and copies of all cited publications and patents with the present Amendment and Response. In view of the foregoing, Applicants respectfully request entry of the present IDS. If there are any issues with the above IDS, please contact the undersigned Applicant's Attorney.

### II. Objection to the Claims.

The Examiner objected that Claims 38 and 40 are dependent upon a rejected base claim. Applicants have amended the base claim, Claim 37, using, e.g., the Examiner's suggestion to recite "an isolated host cell." In view of the foregoing amendment, Applicants respectfully request withdrawal of the objections to Claims 38 and 40.

III. Rejections of Claims 34 and 37 under 35 U.S.C. §101.

The Examiner rejected Claims 34 and 37 under 35 U.S.C. §101 on the basis of being directed to non-statutory subject matter, i.e., a human organism. Claim 34 is canceled and the rejection is moot as to this claim. Applicants have amended Claim 37 to be directed to statutory subject matter. Applicants also believe that new Claims 41-44 are free from this rejection.

Applicants believe the rejection of Claims 34 and 37 under 35 U.S.C. §101 to be overcome by the foregoing amendments. Withdrawal of this rejection is respectfully requested.

IV. Rejections of Claims 31-36 and 39 under 35 U.S.C. §112, Second Paragraph.

The Examiner rejected Claims 31-36 and 39 under 35 U.S.C. §112, second paragraph. Claims 31-36 and 39 are cancelled and the rejection is therefore moot as to these claims. The Examiner alleges that it is unclear how a soluble heterodimer complex is made by a fusion protein. Presently, pending Claims 37, 38, and 40-44 are directed to nucleic acids under the control of separate promoters, as suggested by the Examiner (see Office Action, page 4). Thus the Examiner's contention that the claims read on a fusion or contiguous protein is addressed.

Applicants believe the rejection of Claims 31-36 and 39 under 35 U.S.C. §112, second paragraph, to be overcome by the foregoing amendments. Withdrawal of this rejection is respectfully requested.

**Conclusion**

Applicants' current response is believed to be a complete reply to all the outstanding issues of the latest Office Action. Further, the present response is a bona fide effort to place the application in condition for allowance or in better form for appeal. Accordingly, Applicants respectfully request reconsideration and passage of the amended claims to allowance at the earliest possible convenience.

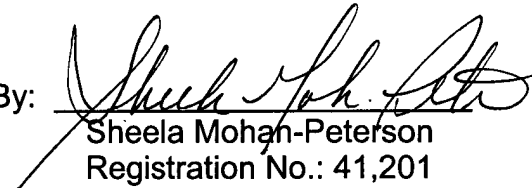
Applicants believe that no additional fees are due with this communication. Should this not be the case, the Commissioner is hereby authorized to debit any charges or refund any overpayments to DNAX Deposit Account No. 04-1239.

If the Examiner believes that a telephonic conference would aid the prosecution of this case in any way, please call the undersigned.

Respectfully submitted,

Date: August 7, 2003

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